

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1335 OF 2024
with
INTERIM APPLICATION (L) NO.20271 OF 2025

Pataarc Developers.
Vs

...Petitioner

Mumbai Building Repairs and Reconstruction
Board (MBR & RB) & Ors.

...Respondents

Mr. Girish S. Godbole, Senior Advocate with Rutuparn Umesh Deo i/b. Aditya Lele, for
Petitioner.

Ms. Rutuja Bodake i/b. Ms. Meena Dhuri & Ms. Komal Punjabi, for Respondent No.3-
BMC.

Mr. Pranesh J. Gada, for Respondent No.4 & 5.

Ms. Aparna Kalathil with Ms. Anjali Maskar i/b. Mr. P.G.Lad, for MHADA.

Mr. Huzefa Nasikwala with Farzana Rine, for Respondent Nos. 6 & 12.

Mr. Khan Javek Akhtar, for Respondent No.20.

AND
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8775 OF 2025

Sherry Sarosh Doodmal
Vs

...Petitioner

MHADA & Ors.

...Respondents

Mr. Huzefa Nasikwala with Farzana Rine, for Petitioner.

Mr. Mansi Joshi i/b. Mr. Manisha Jagtap, for MHADA-Respondent Nos.1 & 2.

Mr. Girish S. Godbole, Senior Advocate with Rutuparn Umesh Deo i/b. Aditya Lele, for
Respondent No.4.

Mr. R. Y. Sirsikar, for Respondent No.3-BMC.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 15th JULY 2025.

P.C.

1. In pursuance of the order dated 17 March 2025 passed by a co-ordinate
Bench of this Court wherein the Court observed that, as there is a dispute

whether the structural audit reports submitted by petitioner on one hand and by respondent Nos.4 to 20 on the other hand, as to which of these reports would be reflecting the correct position on the structural condition of the building, and in these circumstances, the Chief Executive Officer of MHADA needs to appoint a team of experts in the field, to submit a report on the stability or otherwise of the suit building. In pursuance thereto, learned Counsel for MHADA has placed on record a Structural Audit Report of one “Structera Engineering LLP”, Structural Engineers. A copy of the same is also furnished to the parties.

2. Mr.Godbole, learned Senior Counsel for the petitioner has submitted that the petitioner has majority consent of the tenants and the main opposition is of respondent Nos.6 and 12. Respondent Nos.4 and 5 are represented by Advocate Mr.Gada who makes a statement that his clients are not opposing the redevelopment.

3. We need to hear the parties on such report and pass further appropriate orders as law would require. To enable Mr. Gada to place on record an appropriate list of dates as also chart of the majority consents which are received by the petitioner from other tenants, stand over to **24 July 2025 (HOB)**.

4. In the companion petition bearing Writ Petition No.8775 of 2025 (Sherry Sarosh Doodhmal vs. MHADA & Ors.) filed by one of the tenants, our attention is drawn by Mr. Nasikwala, learned Counsel for the petitioner to an order dated 4 September 2024 passed by the co-ordinate Bench of this Court in Writ Petition (L) No.2128 of 2024 filed by the petitioner, by which the petition

came to be disposed of in terms of the draft minutes of the order. Our attention is drawn to paragraph (4) of the draft minutes of order, which reads thus:

“4. The PAAA will clearly record that Respondent No.7 will provide total area (1557 sq.ft) carpet area to the Petitioner as per MHADA norms free of cost on ownership basis in the redeveloped project. For the area beyond 1292 sq.ft. Carpet area, the Petitioner will pay construction cost as per MHADA norms. **[The Petitioner will be entitled to incentive/additional/fungible FSI as per MHADA norms and MHADA NOC. In the event, MHADA prescribes a corpus fund under DCR 33(7)(17), the same shall be provided to the Petitioners.]**”
(emphasis added)

5. The concern of the petitioner appears to be in regard to the bracketed portion (supra). In this context, Mr. Nasikwala has drawn our attention to a letter dated 20 May 2025 (‘Exhibit T’ to the petition) addressed by the petitioner to the Chief Officer, Mumbai Repair & Reconstruction Board, whereby the petitioner has pointed out the entitlement of the petitioner of the area as indicated in the statement thereunder.

6. Considering paragraph (4) of the draft minutes of the order (supra) in terms of which the Division Bench has passed the order dated 4 September 2024 (supra) as also the representation of this petitioner, we are of the opinion that it is for the MHADA to ultimately clarify the position as to what would be the total area to which this petitioner would be entitled in terms of what has been agreed between the parties in paragraph 4 of the draft minutes of the order, which we have noted hereinabove. Mr. Nasikwala fairly states that whatever the MHADA would decide, is agreeable and acceptable to the petitioner.

7. In this view of the matter, to enable MHADA to place on record an appropriate affidavit, we adjourn both the proceedings to **24 July 2025 (HOB)**.

8. A copy of the affidavit by MHADA be served on the parties at least 24

hours in advance.

9. In the meantime, if any of the respondents intends to place on record their respective affidavits including to the Interim Application, they are free to do so.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)